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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,449	03/09/2004	Akihiro Muto	112857-477	2408

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EXAMINER

GREENE, DANIEL L

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,449

Applicant(s)

MUTO ET AL.

Examiner

Daniel L. Greene

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-3 (canceled), 4-6 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter '193, and further in view of Deaton et al. U.S. Patent 6,424,949 B1 [Deaton '949]

As per claims 4-6:

The recitation of, "An information processing method ..., an information processing apparatus..." and "A distribution medium providing a computer-readable program..." has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a method, a system, an apparatus, etc. and the portion of the claim following the preamble is a self-contained description of the method or the system, etc., not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951)

Ginter '193 discloses:

receipt means for receiving the content, a usage control policy including a plurality of usage contents each of which defines a predefined way the content is used, and a price tag including a plurality of prices each of which corresponds to the predefined way; Col. 22, lines 50-67.

storage means for storing the content, the usage control policy and the price tag, Col.17, lines 22-67, Col. 18, lines 1-25

first generating means for generating a usage control status including a usage content which is selected by the user, a price corresponding to the usage content, and a purchase history of the content based on the usage control policy and the price tag; Col. 24, lines 30-56.

setting means for setting a usage history based on usage of the content to the usage control status; Col. 24, lines 1-68

putting means for putting a limit on selecting a usage content based on the purchase history or the usage history when selecting a usage content which is not included in the originally received usage control policy and does not have a corresponding price in the originally received price tag: Col. 25-26, lines 1-68.

second generating means for calculating an accounting price and generating accounting information including said accounting price based on said purchase history or said usage history ; Col. 26, lines 38-68, Col. 27-29, lines 1-68.

sending means for sending the accounting information: Fig. 1A

Ginter '193 discloses the claimed invention except for specifically addressing the limitation of tracking the purchase history of a customer and modifying the price based upon the customer's usage. Deaton' 949 teaches that it is known in the art to track and develop a customer's usage/buying history and use that information to set prices for purchases of the customer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the virtual distribution environment (VDE) that secures, administers and audits electronic information in conjunction with the bitmap meters to record usage and/or purchase information and then use this information as part of pricing and/or control strategies of a content provider of Ginter '193, with the customer's buying history and program of Deaton '949 in order to increase customer service by providing prices reflecting their participation.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Daniel L. Greene
Examiner
Art Unit 3621

4/7/2005